

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHANDRAVADAN T. PATEL and U.S. POSTAL SERVICE,
POST OFFICE, Westville, NJ

*Docket No. 99-2081; Submitted on the Record;
Issued October 4, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met his burden of proof to establish that he sustained a right hand injury on October 17, 1997 as alleged.

On October 18, 1997 appellant, then a 40-year-old letter carrier, filed a notice of traumatic injury and claim alleging that, on October 17, 1997, he sustained an injury to his hand while lifting a tray in the performance of duty. Appellant did not stop work. Subsequently, on April 7, 1998, appellant filed a claim for a recurrence of disability. In a decision dated October 30, 1998, the Office of Workers' Compensation Programs denied appellant's traumatic injury claim on the grounds that fact of injury was not established, and, therefore, declined to review appellant's claim for a recurrence of disability.

The Board has duly reviewed the entire case record on appeal and finds that appellant has not established that he sustained a right hand injury as alleged.

A person who claims benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim, including that he sustained an injury while in the performance of duty and that he had disability as a result.² In accordance with the Federal (FECA) Procedure Manual, in order to determine whether an employee actually sustained an injury in the performance of his duty, the Office begins with the analysis of whether "fact of injury" has been established. Generally, "fact of injury" consists of two components which must be considered in conjunction with the other.

¹ 5 U.S.C. §§ 8101-8193.

² *Charles E. Evans*, 48 ECAB 692 (1997); see 20 C.F.R. § 10.110(a).

The first component to be established is that the employee actually experienced the employment incident or exposure which is alleged to have occurred.³ In order to meet his burden of proof to establish the fact that he sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that he actually experienced the employment injury or exposure at the time, place and in the manner alleged.

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.⁴ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.⁵ The belief of claimant that a condition was caused or aggravated by the employment is not sufficient to establish a causal relationship.⁶

In this case, the Office accepted that appellant submitted sufficient factual information to establish that he lifted a tray on October 17, 1997 at the time, place and in the manner alleged. Therefore, the only issue is whether appellant established that he sustained an injury as a result of the employment incident. Although, in a letter dated June 20, 1998, the Office requested that appellant submit medical evidence to establish that he sustained a personal injury as a result of the October 17, 1997 incident, appellant did not submit any medical evidence.⁷ As the record is devoid of any medical evidence to establish that appellant sustained a personal injury on October 17, 1997, the second prong of the fact-of-injury test has not been established. Appellant has not met his burden of proof.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

⁴ *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15), 10.5(a)(16) ("traumatic injury" and "occupational disease" defined).

⁵ *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

⁶ *Charles E. Evans*, *supra* note 2.

⁷ Subsequent to the issuance of the October 30, 1998 decision, appellant attempted to submit additional supportive evidence to the Office. This evidence was date-stamped received by the Office on November 27, 1998 and August 9, 1999. However, as appellant stated in a letter accompanying this evidence that he wished to appeal the Office's prior decision, appellant's letter and the accompanying medical evidence were forwarded to the Board, where the instant appeal was docketed. The Board's review is limited to the evidence that was before the Office at the time of its final decision. The Board therefore cannot consider this evidence. Appellant may resubmit this evidence to the Office, accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a); 20 C.F.R. § 10.605 *et seq.*

The decision of the Office of Workers' Compensation Programs dated October 30, 1998 is affirmed.

Dated, Washington, DC
October 4, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member